

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DEMARCUS KENARD JOE,

§

Petitioner,

§

v.

§ Civil Action No. **3:24-CV-2645-L-BT**

DIRECTOR, TDCJ-CID,

§

Respondent.

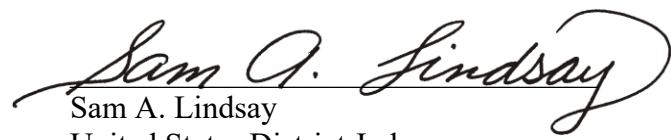
§

ORDER

On October 30, 2024, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 4) was entered, recommending that Petitioner’s habeas petition under 28 U.S.C. § 2254 (Doc. 2) be construed as a successive habeas corpus petition over which the court lacks jurisdiction and transferred to the United States Court of Appeals for the Fifth Circuit. The court has not received any objections to the Report from Petitioner, and the time for filing objections has expired.

After considering the petition, pleadings, file, record in this case, and the Report issued by the magistrate judge, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. When a petition is deemed successive, the district court lacks subject matter jurisdiction unless a panel of the Fifth Circuit allows the successive petition to proceed. For the reasons set forth in the Report, the court **construes** Petitioner’s habeas corpus petition (Doc. 2) as a successive habeas petition under 28 U.S.C. § 2254 over which the court lacks jurisdiction and **directs** the clerk of the court to **transfer** the action and the successive habeas petition to the Fifth Circuit to determine whether the claims asserted should be allowed to proceed.

It is so ordered this 20th day of December, 2024.



Sam A. Lindsay
United States District Judge